

§ 1952.314

29 CFR Ch. XVII (7–1–01 Edition)

enforcement relating to any contractors or subcontractors on any Federal establishment where the land is determined to be exclusive Federal jurisdiction; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(c) Hawaii is required: To maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[49 FR 19192, May 4, 1984, as amended at 65 FR 36627, June 9, 2000]

§ 1952.314 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Hawaii plan under section 18(e) of the Act, effective April 30, 1984, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Hawaii plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violation of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Hawaii plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments. Federal jurisdiction also remains in effect with respect to Federal government employers and employees, enforcement relating to any contractors or subcontractors on any Federal establishment where the land is determined to be exclusive Federal jurisdiction; and the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Hawaii State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

[49 FR 19192, May 4, 1984, as amended at 65 FR 36627, June 9, 2000]

§ 1952.315 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 71 Stevenson Street, 4th Floor, San Francisco, California 94105; and

Office of the Director, Hawaii Department of Labor and Industrial Relations, 830 Punchbowl Street, Honolulu, Hawaii 96831.

[65 FR 36628, June 9, 2000]

§ 1952.316 Changes to approved plans.

(a) *Legislation.* (1) On March 29, 1994, the Assistant Secretary approved Hawaii's revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(2) [Reserved]

(b)(1) *Regulations.* The State's regulation on the Division of Occupational Safety and Health's Access to Employee Medical Records, and amendments to State regulations covering the Labor and Industrial Relations Appeals Board; General Provisions and Definitions; Recording and Reporting Occupational Injuries and Illnesses; Inspections, Citations, and Proposed Penalties; and Variances, promulgated by the State through March 22, 1991, were

approved by the Assistant Secretary on February 20, 1995.

(2) [Reserved]

(c) *Legislation.* (1) An amendment to the Hawaii Occupational Safety and Health Law, enacted in 1987, which expands the type of information that is protected from disclosure in any discovery or civil action arising out of enforcement or administration of the law, was approved by the Assistant Secretary on February 20, 1995.

(2) [Reserved]

(d) *Consultation Manual.* The State's Consultation Policies and Procedures Manual was approved by the Assistant Secretary on February 20, 1995.

(e) *Occupational Safety and Health Administration Technical Manual.* The State's adoption of the Federal OSHA Technical Manual, through Change 1, was approved by the Assistant Secretary on February 20, 1995.

(f) *Reorganized Plan.* The reorganization of the Hawaii plan was approved by the Assistant Secretary on February 20, 1995.

[59 FR 14556, Mar. 29, 1994 as amended at 60 FR 12419, Mar. 7, 1995]

Subpart Z—Indiana

§ 1952.320 Description of the plan as initially approved.

(a)(1) The plan identifies the Indiana Division of Labor as the State agency designated to implement and carry out the State plan. Within this structure, the Occupational Safety Standards Commission has the responsibility to adopt standards and dispose of variance applications; the Commissioner of Labor is charged with the administration and enforcement of the Act; and the Board of Safety Review is to conduct and decide contested cases. The State Board of Health, Industrial Hygiene Division, pursuant to an agreement with the Division of Labor will provide laboratory services and will conduct occupational health inspections as scheduled by the Division of Labor.

(2) The plan defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). Further, Indiana has adopted all Federal safety and health standards contained in 29 CFR parts